IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.5119 OF 1996

Shri B. G. Pawar .. ..Petitioner

Versus

Shri Sunil Ganpat Mali & Ors. .. ..Respondents

Mr.S.A.Sawant for petitioner

Mr.S.K.Chinchalikar, AGP for respondent nos.4 and 5

Mr.Pratap Patil for respondent nos.2 and 3

CORAM : P.V.KAKADE, J.

DATE : 3RD FEBRUARY, 2006.

P.C.:

1. Heard the learned counsel for the petitioner as well as for Respondent Nos.2 and 3 Management and Respondent Nos.4 and 5 State.

2. The Petition has moved against the order passed by

the School Tribunal dated 6.9.1996 allowing the appeal and termination notice dated 18.3.1995 effected from 20.4.1995 and otherwise termination dated 29.9.1995 was declared illegal, ineffective and therefore was quashed and set aside. Further the respondents-Management was directed to maintain the services of the appellant continued as being permanent employee as the Stay order has been confirmed and respondent nos.1, 3 and 4 was further directed to pay back emoluments including pay and allowances which were due and payable from the date of termination dated 20.4.1995.

. Against this order the present petition came to be filed by the present petitioner challenging the said impugned order, who was original respondent no.2 in the appeal, whose claim was denied by the tribunal.

3. Now it is submitted before this court that the respondent no.1 in whose favour the School Tribunal order was passed has expired on 29.6.2001 and therefore, the post occupied by him is rendered vacant and therefore, it is submitted on behalf of the petitioner that the proposal to consider the petitioner for the said post on the basis of his seniority should be considered by the competent

authorities. In view of the fact that the respondent is dead and the fact that the present petitioner is in position to legitimately claim the place in lieu of respondent no.1, it is necessary to set aside the order of the school tribunal in order to give further directions to the remaining respondents.

4. Hence, in view of the facts and circumstances the order dated 6.9.1996 passed by the School Tribunal in Appeal No.155 of 1996 is set aside. The respondent nos.2 and 3 are hereby directed to send the proposal to the respondent nos.4 and 5 to consider the name of present petitioner for the post rendered surplus due to the death of respondent no.1 for his placement in any post available in Government College or any Aided College within four weeks from the date of this order and thereafter the respondent nos.4 and 5 shall duly consider the proposal within four weeks thereafter. With these directions the petition stands disposed of with no order as to costs.

. Consequently Civil Application No.2848 of 2005 as well as Civil Application No.2959 of 1998 stands disposed of with no order as to costs.